

Before The FCC MAIL SECTION
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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Federal Communications Commission
Office of the Secretary

In the Matter of)

Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)

MM DOCKET No. [REDACTED] 89-327
RM-6840
RM-7305

(Stallsville, North Myrtle Beach,)
Loris, and St. Stephen, South)
Carolina))

ORIGINAL
FILE

RM 7925
mm 92-84

Directed to: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

COMMENTS AND COUNTERPROPOSAL

COMES NOW RJM Broadcasting ("RJM"), which respectfully submits this counterproposal in comments to the above captioned counterproposal to the combined Rule Making of MM Docket Nos. 89-326 and 89-327. In support whereof, the following is shown:

1. RJM filed with the Commission on June 1, 1989, a Petition for Rule Making seeking the assignment of Channel 292A to Stallsville, South Carolina.

2. As a counterproposal herein, RJM requests the assignment of Channel 292A to Ladson, South Carolina as its first commercial FM assignment in lieu of the Channel being located in Stallsville. Ladson is a growing incorporated community located in Berkeley and Charleston Counties, with a highly definable business area and population of 13,246 persons, as indicated in the 1990

Rand McNally Commercial Atlas and Marketing Guide ("Atlas"). The Ladson population is much greater than that found in Stallsville (population 300, see Atlas). Ladson is more desirable for allotment purposes as it satisfies better the criteria set forth in FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). The allotment of Channel 292A to Ladson would better serve the public interest than its use at Stallsville.

3. The reference coordinates set forth in RM-6840, North Latitude 32-59-47; West Longitude 80-10-56, for the proposed Stallsville location can also be used for the allocation of this channel to Ladson. The town of Ladson is located 7.7 kilometers East (96.6°) of the reference site. From this site the complete corporate limits of Ladson could be covered by a Class A facility operating at maximum power and height. A map showing the site in relation to the community of Ladson is attached as Exhibit 1.

4. Accordingly, RJM presents the following counter-proposal in this proceeding:

City	Present	Proposed
Ladson, South Carolina	---	292A

5. RJM represents that if Channel 292A is allocated to Ladson, South Carolina, that it will immediately tender for filing an application seeking authority to construct the facility, and if granted the construction permit, will

immediately construct the station.

6. The Commission consolidated RJM's original petition into Dockets 89-326 and 89-327 in its Memorandum Opinion and Order MM Docket 84-231, FCC 90-52, released February 20, 1990, in response to the D.C. Circuit Court's decision in Reeder v. FCC, 865 F.2d 1298 (D.C. Cir. 1989). In its Memorandum Opinion and Order, FCC 90-52, the Commission states that RJM's petition (RM-6840) conflicts with a proposed upgrade of WNMB(FM), North Myrtle Beach, South Carolina, submitted by WNMB's licensee, Ogden Broadcasting of South Carolina, Inc. ("Ogden") (RM-7305). In order to upgrade WNMB, Ogden proposed the substitution of Channel 235A for Channel 290A at Loris, South Carolina, and the substitution of Channel 291A for Channel 290A at St. Stephen, South Carolina. It is the proposed substitution at St. Stephen which conflicts with RJM's proposal, in that the use of Channel 291A at St. Stephen precludes the allotment of Channel 292A at Stallville (or Ladson, as counterproposed herein).

7. RJM attempted to find an alternative channel swap for St. Stephen, however, none appear to work. Failing this, RJM sought to find an alternative channel for North Myrtle Beach which would not require the proposed substitution at St. Stephen. RJM found no method which Ogden could alternately use to upgrade WNMB without having to change some existing licensed and/or granted channels, and which would not ultimately preclude other

counterproposals also existing within this consolidated docket.

8. The Commission has set forth in its Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982) the following allotment priorities:

- 1 - First aural service.
- 2 - Second aural service.
- 3 - First local service.
- 4 - Other public interest matters.

Priorities 2 and 3 have co-equal weight.

RJM's counterproposal in RM-6840, and its alternative advanced herein, falls under priority 3, since RJM seeks allotment to a community presently without local service. RM-7305, Ogden's proposed upgrade of WNMB(FM) and the associated substitutions at Loris and St. Stephen, falls under priority 4, "other public interest matters". Additionally, since the Myrtle Beach and Charleston metro areas are heavily radioed areas, RJM could find no provision of first or second aural service resulting from either proposal, thus limiting both to their initial allotment priorities. Therefore, RJM's counterproposal (and its alternative) must be favored over Ogden's counterproposal based upon the Commission's stated allotment priorities as set forth in its Revision of FM Assignment Policies and Procedures.

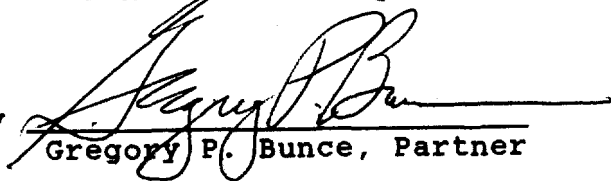
WHEREFORE, in the light of the foregoing, RJM requests that the Commission grant its counterproposal and

allot Channel 292A to Ladson, South Carolina, as its first commercial FM assignment, and deny Ogden's counterproposal seeking to substitute Channel 291A for Channel 290A at St. Stephen, South Carolina.

Respectfully submitted,

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By


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March 28, 1990

CERTIFICATE OF SERVICE

I, Gregory P. Bunce, do hereby certify that on this 28th day of March, 1990, I have caused to be mailed, via first class mail, postage prepaid, a copy of the foregoing "Comments and Counterproposal" to the following:

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